

HAITI 2022 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Haiti is a constitutional republic with a multiparty political system. During the year, the country was in an extraconstitutional situation. Prime Minister Ariel Henry, who acted as head of state and head of government, was appointed by President Jovenel Moïse three days before Moïse's death in July 2021 and was later installed by the Council of Ministers after Moïse's death. Henry was not confirmed by Parliament as required by the constitution, due to the absence of a parliamentary quorum. The most recent presidential elections took place in 2016, and the most recent national legislative elections took place in 2017; international observers considered the elections free and fair. In January 2020, the terms of the majority of the parliamentary members expired because the country did not conduct elections in 2019. Only 10 elected senators of 30 remained in the upper house, while the lower house had no elected members. As a result, Parliament was unable to reach a quorum and ceased to function. Nearly 400 unelected mayors continued to serve at the pleasure of the executive. Due to widespread insecurity and a prolonged political impasse related to the extraconstitutional situation, little progress was made towards planning the overdue legislative or presidential elections.

The Haitian National Police, an autonomous civilian institution led by a director general under the authority of the minister of justice and public security, is responsible for maintaining public security. The Haitian National Police includes police, corrections, fire, emergency response, airport security, port security, and coast guard functions. The Ministry of Justice and Public Security, through its minister and the secretary of state for public security, provides oversight to the Haitian National Police. The Superior Council of the National Police, chaired by the prime minister, provides strategic guidance. The Superior Council includes the director general and the chief inspector general of the Haitian National Police, the minister of the interior, and the minister of justice and public security. Civilian authorities at times did not maintain effective control over the security forces. There were reports members of the security forces committed abuses.

Significant human rights issues included credible reports of: unlawful or arbitrary killings; torture or cruel, inhuman, or degrading treatment or punishment by government agents; harsh and life-threatening prison conditions; arbitrary arrest and detention; serious problems with the independence of the judiciary; serious abuses in a conflict, including widespread civilian deaths or harm, enforced disappearances or abductions, torture, and physical abuse; inability of citizens to change their government peacefully through free and fair elections; serious government corruption; lack of investigation of and accountability for gender-based violence; substantial barriers to accessing sexual and reproductive health services; trafficking in persons; crimes involving violence and threats of violence targeting lesbian, gay, bisexual, transgender, queer, or intersex persons; and existence of some of the worst forms of child labor.

The government rarely took steps to identify, prosecute, and punish government and law enforcement officials who committed abuses or engaged in corruption, and civil society groups alleged widespread impunity regarding these acts.

Gang violence continued at high rates in the Port-au-Prince metropolitan area. Some gangs allegedly received support from political and economic elites. Kidnappings for ransom by armed gangs increased and affected all parts of society. Armed gangs were also responsible for armed conflicts resulting in killings, brutal attacks on citizens, targeted instances of sexual violence, mutilation of human remains, widespread displacement, and the destruction of homes and property.

Section 1. Respect for the Integrity of the Person

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were several reports the government or its agents committed arbitrary and unlawful killings. Allegations of unlawful or arbitrary killings by police, as well as other police abuses, are investigated by the inspector general (IGPNH) of the Haitian National Police (HNP). The allegations generally related to inappropriate use of force in responding to protests. Monitoring organizations asserted, however, that due to the frequency of gunfire during protests, it was often difficult to determine if gunfire from police or from other protesters killed victims. Human

rights activists stated strengthening the IGPNH should be one of the government's priorities to assure investigations are handled appropriately.

The UN Integrated Office in Haiti (BINUH) reported that from June to September, 51 persons were killed during HNP operations. The IGPNH received 429 complaints from January to August, including four cases of alleged summary executions. Follow-up for these cases included both administrative and judicial responses, including suspensions, weapon seizures, and training.

On February 21, while covering a textile workers' protest, photojournalist Maxiben Lazare was killed when men in uniforms drove past the protest and fired into the crowd. Two other journalists and a factory worker were injured. The HNP inspector general opened an investigation into the incident, but at year's end, there was no resolution to the investigation, and the perpetrator(s) had yet to be identified.

In a June 2 open letter to Minister of Justice Berto Dorcé, the Eyes Wide Open Foundation (FJKL) alleged Miragoane prosecutor Jean-Ernst Muscadin killed an accused gang member. The allegation was based on a video that began circulating on May 30 in which Muscadin approached Elvain Saint Jacques, accused him of being a member of the Village de Dieu gang, told him to "say his last words to his parents," and shot him at close range. Muscadin was also accused of the March 23 killing of Cambronne Soiman, a clerk from Petite Riviere de Nippes. After FJKL's letter was published, a video clip began circulating on social media in which Muscadin threatened to arrest FJKL director Marie Yolene Gilles.

A video began circulating on social media in July of a police special weapons and tactics (SWAT) squad allegedly shooting a young man at close range while he fled. The IGPNH investigation into the killing was underway. A SWAT officer was detained and stripped of his weapon and badge, and four officers who witnessed the act were suspended and removed from the unit.

Following nationwide protests against insecurity, fuel shortages, and the high cost of living, BINUH reported that on August 21, one person was killed in Jacmel by officers from the Jacmel Departmental Unit for the Maintenance of Order (UDMO), the HNP unit responsible for crowd control. On August 23, four persons

were killed in Les Cayes when UDMO officers fired into a crowd of protesters to prevent them from erecting barricades.

On October 30, Romelson Vilcin, a radio journalist, was killed during a protest at the HNP police station in Delmas 33 when a tear gas canister struck him in the head. The IGPNH opened an investigation into the case immediately after the incident and as of November was interviewing police station staff, witnesses, and HNP members present at the protest.

On January 6, armed gangs reportedly shot and burned alive journalists John Wesley Amady and Wilguens Louissaint in Laboule, in metropolitan Port-au-Prince. The Online Media Collective reported the journalists had visited the area to report on gang violence in Fessard. Prime Minister Henry, Ombudsman Renan Hedouville, and nongovernmental organization (NGO) Reporters Without Borders condemned the killings. There were no allegations of government involvement.

On September 11, journalists Tayson Latigue and Frantzsen Charles, who worked for YouTube-based FS News, were executed and burned by armed groups in Cité Soleil. Latigue and Charles had traveled to the neighborhood with five other journalists, who survived the attack, to interview the parents of a girl, age 17, killed by armed groups on September 10. There were no allegations of government involvement.

On October 24, the body of Gary Tess, a radio host for Radio LeBon FM, was found in Les Cayes, six days after his family initially reported him missing. As of November, the circumstances of his death remained unclear, but there were social media allegations his death was politically motivated.

No significant progress was made in investigating the July 2021 assassination of President Moïse. The fourth and fifth investigative judges assigned to the case faced administrative and security challenges and were not able to make any meaningful progress before the end of their mandates. Many members of civil society organizations and the government continued to believe the judiciary did not have the capacity to handle such a complex, sensitive, and politicized crime.

The government and judiciary made minimal progress on a growing list of emblematic killings. While authorities stated they continued to investigate large-

scale attacks in the Port-au-Prince neighborhoods of Grande Ravine (2017), Bel Air (2018), La Saline (2019), and Cité Soleil (2020), each of which left dozens dead, the government had yet to bring any perpetrators to justice. There has been no investigative judge assigned to the La Saline case since January 2021, when then President Moïse declined to renew the mandate of the assigned judge.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, and Other Related Abuses

The constitution prohibits such practices, but there were credible reports from human rights NGOs that HNP officers occasionally beat or abused detainees and suspects. BINUH and the Office of Citizens' Protection (OPC), an independent government ombudsman, documented cases of abuse in prisons. The UN Secretary-General's June report on the country documented several confirmed allegations of sexual assault by prison officers against women prisoners, for example, some of which resulted in pregnancies.

On February 21, the National Network for the Defense of Human Rights (RNDDH) reported that during minimum wage protests on February 9-17 in Port-au-Prince, police brutality and use of tear gas injured 15 persons.

On May 26, the online newspaper *RezoNòdwès* posted a video of 18 Colombian citizens detained in connection with the 2021 assassination of President Moïse. The detainees stated that during their 10 months in prison, they had been "tortured" and denied access to food, water, and sanitary facilities for as long as 72 hours at a time.

Impunity was a significant problem in the HNP. Civil society representatives continued to allege widespread impunity, driven largely by poor training and a lack of professionalism, as well as rogue elements within the HNP allegedly maintaining gang connections.

Prison and Detention Center Conditions

Prison conditions were harsh and life threatening due to food shortages, severe overcrowding, inadequate sanitary conditions, and poorly maintained structures. The UN Secretary-General's June report on the country condemned deteriorating conditions in prisons and detention centers.

Abusive Physical Conditions: Overcrowding at prisons and detention centers was severe. In June the UN Secretary-General's report estimated the nationwide occupancy rate of prisons was nearly three times the designed capacity; however, individual prisons' occupancy rates were much higher. Nearly half of the cells in the Les Cayes prison, for example, were destroyed by the August 2021 earthquake and were unusable. This doubled the rate of occupancy in individual cells. The National Penitentiary in Port-au-Prince was designed to hold 800 prisoners; as of July, it held more than 3,700. Prison overcrowding grew worse due to high rates of pretrial detention. As of July, 83 percent of prisoners nationwide were in prolonged pretrial detention, or held without charges for longer than the 48 hours allowed by the constitution, most for years at a time; in South Department, the figure was as high as 91 percent.

There was one prison designated for juveniles, the Rehabilitation Center for Minors in Conflict with the Law in Port-au-Prince. Juveniles held elsewhere were typically held in adult detention centers, although the Directorate of Prison Administration (DAP) and individual prison staff attempted to provide separate cells for juveniles when possible. The Mobile Institute for Democracy, which provided educational programming and advocacy for youth detainees, stated most juveniles in prison were in pretrial detention.

In a February documentary that included interviews with several juvenile prisoners and gang members, the online news source *New Humanitarian* highlighted the large number of juveniles who developed gang alliances while in prison. Some of these juveniles were arrested because of their gang activity, but others became gang members while imprisoned.

The DAP reported most prisoners did not have two meals a day; many prisoners received only one meal daily, of low nutritional quality. The NGO Health Through

Walls reported 83 prisoners died between January and September. Most deaths were caused by starvation and poor living conditions. BINUH and other human rights representatives stated the low initial budget allocated to the DAP for prisoners' food, as well as diversions of those funds for other purposes including alleged corruption, aggravated nationwide prison food shortages. On July 21, the director of the Saint Marc civil prison appealed to media, saying there was no food or water available for the 500 prisoners held there.

In July a video of severely malnourished prisoners at the Les Cayes prison was widely circulated on social media and attracted widespread condemnation. On August 1, the FJKL reported prisoners at the National Penitentiary attempted a "mutiny" on July 28 in protest of being deprived of food, water, or access to bathing facilities for four days.

Medical care for prisoners was provided nearly exclusively by the NGO Health Through Walls, which had limited capacity to treat serious and life-threatening conditions. There was inadequate medical care to stop the spread of infections such as tuberculosis or scabies. A cholera outbreak that began in September was especially dangerous in the prison environment due to the lack of general sanitation and prisoners' poor health. Outbreaks occurred in six prisons during the year.

Prisoners in many prisons and detention centers, including the National Penitentiary in Port-au-Prince, did not have regular access to sanitary facilities and were required to relieve themselves in plastic bags that they had to purchase. Prisoners at the National Penitentiary and at Les Cayes had extremely limited opportunities to leave their cells.

Gang members continued to experience special treatment in detention and were sometimes released without proper cause. Before Germaine Joly's extradition to the United States on May 3, civil society sources reported Joly, leader of the 400 Mawozo gang, allegedly managed 400 Mawozo operations, planned attacks and kidnappings, threw parties, and hosted Facebook Live streaming sessions from his cell at the National Penitentiary in clear violation of prison rules. According to RNDDH and local media, throughout April and May the 400 Mawozo gang threatened to attack the Croix-des-Bouquets prison to free detainees associated

with 400 Mawozo; no such attack materialized.

Local media reported alleged gang member Jean Samy Dorvil was released in April from Fort-Liberte prison without due process. On April 4, the head of the prison, Desrosiers Joseph, was arrested with three police officers and imprisoned for his involvement in Dorvil's improper release.

Administration: The OPC has the right to inspect any prison throughout the country at any time without express authorization. OPC staff confirmed prison leadership throughout the country respected this right and facilitated visits to the best of their ability. The OPC regularly visited prisons and detention facilities and worked closely with NGOs and civil society groups. These visits allowed the OPC to investigate credible allegations of inhuman conditions in prisons and facilitate recommendations to the DAP, Ministry of Justice and Public Security, Council of Ministers, and the prime minister. Despite these interventions, however, prison conditions nationwide remained extremely difficult.

Human rights organizations and prisoner testimonies stated prisoners had extremely limited opportunities to leave their cells for any reason, including to receive visitors or for religious observances.

Independent Monitoring: The DAP permitted the United Nations, local human rights NGOs, the International Committee of the Red Cross, and other organizations to monitor prison conditions. These institutions and organizations investigated allegations of abuse and mistreatment of prisoners.

Improvements: On June 29, after a video showing emaciated prisoners in Cap-Haitien circulated on social media, the minister of justice and public security visited the prison and ordered humanitarian release on July 1 for 37 inmates convicted of minor offenses. After a similar video circulated of prisoners in Les Cayes in July, an additional 40 prisoners were released on humanitarian grounds.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention. The government generally failed to observe these requirements.

Arrest Procedures and Treatment of Detainees

The constitution states authorities may arrest a person only if that person is in the act of committing a crime or if the arrest is based on a warrant issued by a competent official such as a justice of the peace or magistrate. Authorities must bring the detainee before a judge within 48 hours of arrest. By routinely holding prisoners unlawfully in prolonged pretrial detention, authorities failed to comply with these requirements.

The OPC's national and eight departmental offices worked to verify law enforcement and judicial authorities respected the right to due process. When authorities detained persons beyond the maximum allotted 48 hours and OPC representatives learned of the case, the OPC intervened on the detainee's behalf when possible to expedite the process. The OPC was unable to intervene in all cases of unlawful detention, and OPC staff stated authorities generally did not respect the 48-hour rule.

RNDDH and other human rights organizations confirmed that although many arrests did not follow proper legal procedures and some detainees were held longer than the law allowed, these detentions were generally not politically motivated.

While authorities generally acknowledged the right to counsel, most detainees could not afford a private attorney. The Office of Legal Assistance (BAL) is required to provide free legal assistance to anyone, regardless of "nationality, sex, age, or any other consideration," who the BAL's coordinator determines cannot afford legal assistance in any judicial proceeding, including civil cases. OPC staff and human rights contacts reported, however, shortages of funding, a limited number of lawyers, and the small number of actual court hearings hampered the BAL's effectiveness.

The criminal code has a bail procedure that was rarely used. The law contains explicit and defendant-friendly provisions, but those provisions rarely protected detainees and prisoners. The right to see a judge within 48 hours of detention was rarely respected.

The law requires prosecutors to routinely visit detention centers and police stations to provide for proper treatment of detainees and respect for arrest procedures; OPC

staff stated these visits rarely occurred.

Arbitrary Arrest: Independent observers confirmed instances of police arresting individuals without warrants or with improperly prepared warrants even when those individuals were not apprehended in the process of committing a crime. Authorities frequently detained individuals on unspecified charges. Human rights organizations reported police sometimes arrested large groups of persons attending protests or near crime scenes without attempting to ascertain who was committing a crime.

The OPC may file complaints on the legality of an arrest if it receives notice from a detainee, community member, or other source that a questionable arrest has occurred. The OPC accepted claims via telephone, in person in their regional and national offices, and on their website.

Civil society and human rights organizations alleged some repatriated citizens were detained after their repatriation despite having committed no crime in Haiti. These organizations alleged the individuals were held illegally by government officials, who sought to secure bribes in exchange for their release.

Pretrial Detention: Illegal and prolonged pretrial detention remained a problem due to the arbitrary application of court rules, arbitrary judicial discretion, corruption, and poor recordkeeping. Many pretrial detainees never consulted with an attorney, appeared before a judge, or received a docket timeline. In some cases, detainees spent years in detention without appearing before a judge. According to estimates in September from BINUH, 83 percent of detainees were in unlawful pretrial detention. In some prisons, the rates were much higher; in October, the DAP reported all prisoners in Gonaives were in pretrial detention. Local human rights groups reported prisoners were often held even after completing their sentences due to difficulty obtaining release orders from the prosecutor's office. Some prisoners were held longer in pretrial detention than the required sentences for their accused crimes.

e. Denial of Fair Public Trial

The law provides for an independent judiciary; however, the government did not respect judicial independence and impartiality. Judicial independence continued to

erode during the year, according to all major national magistrate and judges' associations and human rights activists. Only a quarter of the seats in the Supreme Court remained filled following the expiration of three judges' terms in mid-February; as a result, the Supreme Court lost its quorum and could no longer function. The OPC and the Superior Court of Accounts and Administrative Litigation remained the only government bodies outside of the executive branch's direct control.

Senior officials in the executive branch exerted significant influence on the judicial branch and law enforcement, according to local and international human rights organizations. Human rights organizations alleged politicians routinely influenced judicial decisions and used the justice system to target political opponents.

Detainees reported credible cases of extortion, false charges, illegal detention, physical violence by police, and judicial officials refusing to comply with basic due-process requirements. The executive branch has the power to name and dismiss public prosecutors and court clerks at will. Judges faced less direct pressure from the executive branch since judges served for fixed-term mandates, but civil society organizations and judges themselves reported a fear of ruling against powerful interests due to concern for job security and personal safety.

The law requires each of the country's 18 jurisdictions to convene jury and nonjury trial sessions twice per year, usually in July and December, for charges involving major, violent crimes. During a jury trial session, the court may decide for any reason to postpone the hearing to the next session, most often due to the unavailability of witnesses. In these cases, defendants returned to prison until the next jury trial session. Human rights groups highlighted poor treatment of defendants during criminal trials, saying defendants in some jurisdictions spent the entire day without food or water. As of August, only six of the 18 jurisdictions held criminal trials; all were nonjury trials. There were no jury trials held in any jurisdiction.

Corruption and a lack of judicial oversight severely hampered the right to a fair public trial. Human rights organizations reported several judicial officials, including judges and court clerks, arbitrarily charged fees to begin criminal prosecutions. Observers also claimed judges and prosecutors ignored defendants

who did not pay the fees.

There were credible allegations of unqualified and nonprofessional judges who received judicial appointments as political favors. There were also persistent accusations that court deans, who are responsible for assigning cases to judges for investigation and review, at times assigned politically sensitive cases to judges with close ties to the executive and legislative branches. Many judicial officials reportedly held full-time jobs outside the courts, although the constitution bars this practice except when teaching. Human rights organizations highlighted corruption by judges, court staff, and lawyers as a significant hindrance to court operations and proceedings. Human rights organizations reported many judges decided very few cases or rarely came to work due to limited oversight and a lack of consequences.

Judges must order a trial or dismiss the case within six months. Judges and other judicial actors frequently did not meet this deadline due to insecurity, corruption, or other noncompliance problems, resulting in unlawful and prolonged pretrial detention for many detainees.

Persistent strikes by clerks, lawyers, judges, and prosecutors continued to hinder timely court proceedings. Lawyers' unions and professional organizations staged demonstrations throughout April to protest insecure working conditions. A nationwide strike by court clerks prevented most courts from conducting hearings from April 12 to May 25.

The lack of an elected president since the assassination of Jovenel Moïse and the absence of a quorum in Parliament were major obstacles to maintaining a functioning judiciary. Individual lawyers, judges, and clerks in the Port-au-Prince area also reported believing they were unsafe traveling to work, which led to delayed trials and exacerbated pretrial detention. Human rights groups stated corruption and demands for bribes delayed the trial process.

On June 10, the Village-de-Dieu Baz 5 Second gang briefly took control of Port-au-Prince's main courthouse, the Court of First Instance. Gang members shot a security guard, broke windows, vandalized courtrooms, seized court files, and stole computers, safes, and four vehicles. Although the HNP regained control of the

courthouse shortly after the attack, court staff continued to express concerns regarding the building's security and location. In July, the Chief Prosecutor's Office was relocated to the headquarters of the OPC in an effort to allow it to resume normal functions. OPC staff stated this was a temporary move while violence prevented the Chief Prosecutor's staff from accessing their usual office space at the Court of First Instance.

Trial Procedures

The constitution provides for the right to a fair and public trial, but the judiciary did not uniformly enforce this right. Authorities widely ignored constitutional trial and due-process rights.

Defendants have the right to the assistance of an attorney of their choice, but legal aid programs were limited, and those who could not pay for attorneys were not always provided one free of charge. The law does not specifically provide a defendant time to prepare an adequate defense. Defendants have the right to confront hostile witnesses and present their own witnesses and evidence, but judges often denied these rights. The perception of widespread impunity discouraged some witnesses from testifying at trials.

While French and Haitian Creole are both official languages, with Haitian Creole being the most commonly spoken language, all laws and most legal proceedings were in French. Observers noted judges generally ensured defendants fully understood the proceedings.

The functioning of justice of the peace courts, the lowest courts in the judicial system, was inadequate. Justices presided based on their personal availability and often maintained separate, full-time jobs. Law enforcement authorities rarely maintained order during court proceedings, and frequently there was no court reporter. To avoid lengthy waits, defendants would often bribe judges to have their cases heard.

In many communities, especially in rural areas, elected communal administrators with no legal judicial authority took on the role of state judges and asserted powers of arrest, detention, and issuance of legal judgments. Some communal administrators turned their offices into courtrooms.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Victims of alleged human rights abuses may file a civil or criminal complaint before a judge. Courts may award damages for human rights abuse claims brought in civil court, but seeking such remedies was difficult and rarely successful because a variety of problems throughout the year prevented most civil hearings from occurring.

Human rights cases may be submitted directly through petitions by individuals or organizations to the Inter-American Commission on Human Rights, which in turn may submit the case to the Inter-American Court of Human Rights.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and there were no reports the government failed to respect these prohibitions.

g. Conflict-Related Abuses

The government was not party to any conflict. Armed gangs, some alleged to be supported by political and business actors, fought for control of territory throughout the metropolitan Port-au-Prince area, typically in the most disadvantaged and impoverished areas. These conflicts killed hundreds of residents. Reports emerged of serious human rights abuses, including the targeted use of gender-based violence, cannibalism and violent destruction of human remains that were publicized for maximum psychological effect, and deliberate blockage of humanitarian aid. BINUH reported gang violence killed 1,248 persons and displaced thousands more between January and June.

From April 24 to May 16, the G-Pep-allied 400 Mawozo gang and the G-9-allied Chen Mechan gang fought for control of territory in the Plaine du Cul de Sac region. According to RNDDH, the conflict began when 400 Mawozo attacked

Chen Mechan-held territory to broaden its revenue base.

From July 7-17, the G-9-allied Belekou gang and the G-Pep-allied Brooklyn gang fought for control of the Cité Soleil neighborhood. Clashes were worst in the Brooklyn, Soleil 17, and Soleil 19 areas, the most populated portions of Cité Soleil, that were controlled by G-Pep at the fighting's outbreak.

Killings: From April 24 to May 16, large multiday battles among rival gangs killed approximately 190 persons, including an estimated 96 gang members, according to BINUH and RNDDH. Reports emerged of rapes, injuries, retaliatory killings, killings of children, and mutilation of human remains.

From July 7-17, multiday battles between two other rival gangs killed between 150 and 300 persons, according to BINUH and RNDDH. Reportedly, Belekou gang members distributed machetes to neighborhood residents on July 10 and encouraged them to seek revenge for family members and friends who had been killed. Human rights sources documented retaliatory killings and mutilation of human remains.

Abductions: Armed gangs in the Port-au-Prince metropolitan area and around the country continued the practice of kidnapping for ransom. BINUH reported 1,236 kidnappings for ransom in the year, 86 percent of which occurred in West Department, which includes Port-au-Prince. These data, however, only included those kidnappings reported to authorities; the actual number was likely higher. Human rights organizations reported gangs subjected those they kidnapped to poor treatment, including deprivation of food, physical and sexual violence, and other abuses. There were several reports of gangs videotaping sexual violence against victims to pressure families to pay ransoms more quickly.

Physical Abuse, Punishment, and Torture: Human rights and UN sources confirmed that from April 24 to May 16, armed gang members used sexual violence to inflict suffering on the residents of the neighborhoods in which gangs fought. BINUH reported armed actors broke into homes and raped young women, girls as young as 10, and at least one boy.

Armed groups filmed acts of decapitation, butchery, and cannibalism that were then circulated on social media to terrorize members of the law enforcement

community as well as members of rival gangs.

Both BINUH and RNDDH confirmed that from July 7-17, gender-based violence was widely used as a tool of conflict for both gangs. As a result of 40 interviews, BINUH and RNDDH concluded G-9 and G-Pep gangs used sexual violence to inflict maximum suffering on rival communities. Several survivors recounted their assailants explicitly said the survivors were being raped as “punishment” or to be “hurt” for living in areas under G-9 control. All survivors recounted being severely beaten and collectively raped; several survivors stated armed gang members executed the survivors’ husbands and partners in front of them before raping the survivor.

Other Conflict-related Abuse: At the beginning of the July 7-17 conflict, humanitarian organizations, including Doctors Without Borders, reported the conflict completely isolated the Cité Soleil neighborhood, and they were unable to deliver aid or evacuate wounded residents for medical care. On July 19, the World Food Program was able to begin delivering commodities to the neighborhood with an HNP escort.

Section 2. Respect for Civil Liberties

a. Freedom of Expression, Including for Members of the Press and Other Media

The constitution provides for freedom of expression, including for members of the press and other media, and the government generally respected this right. Civil society observers, however, noted this right was not always upheld or respected.

Violence and Harassment: Journalists reported a deteriorating security climate and stated some journalists resorted to self-censorship to avoid being publicly targeted by political or gang leaders. There were attacks on journalists, including the January killing of John Wesley Amady and Wilguens Louissaint and the September killing of Tayson Latigue and Frantzen Charles while they reported on gang violence in gang-controlled neighborhoods (see section 1.a.). These attacks led many journalists to be fearful of reprisal. Other journalists stated they received threats related to their coverage of gang activities.

Protests remained volatile, dangerous environments for journalism, and two journalists – Maxiben Lazare and Romelson Vilcin – were killed during protests. The Online Media Collective organized a March 9 demonstration to protest the killing of journalists by gang members and members of the HNP.

Nongovernmental Impact: Journalists covering gang violence reported they feared reprisals from gangs; several incidents heightened these fears.

On October 25, Roberson Alphonse, a journalist for the daily newspaper *Le Nouvelliste* and the radio station Magik9, was attacked by armed gang members while he drove to work. Although both Alphonse and *Le Nouvelliste* stated they did not believe the attack was targeted, they viewed the incident as indicative of the dangerous security situation throughout Port-au-Prince.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private online communications without appropriate legal authorization.

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these related rights.

Freedom of Peaceful Assembly

Under the constitution, citizens have almost unlimited rights to peaceful gatherings. Police must be informed in advance of planned gatherings but may not prevent them. As in previous years, many persons exercised the right of peaceful assembly. There were reports of police using inappropriate force against protesters. The HNP General Inspectorate launched several investigations into allegations of excessive use of force during protests, particularly against journalists. The investigations continued as of year's end.

Freedom of Association

Organizations are required to register with the Ministry of Social Affairs and Labor

(Ministry of Social Affairs). This registration allows organizations to open bank accounts, apply for grants, buy property, implement projects, and carry out any advocacy campaigns. Organizations representing the lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) community reported difficulties registering, although no law restricts their registration.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement and the Right to Leave the Country

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these related rights.

e. Protection of Refugees

Access to Asylum: The law provides for granting refugee status or asylum through Haitian missions or consulates abroad, and the government has established a system for providing protection to refugees. Third-country nationals may petition for asylum through the local office of the UN High Commissioner for Refugees.

f. Status and Treatment of Internally Displaced Persons

During the year, a steady number of intergang clashes and generalized gang violence caused widespread displacement throughout the metropolitan area of Port-au-Prince. According to the International Organization for Migration and the Directorate General of Civil Protection, gang violence displaced 43,332 persons between April 23 and July 22. In gang-controlled neighborhoods and in areas where gangs were active, violent gangs destroyed homes, property, and vehicles; killed and injured neighborhood residents; and limited economic opportunities. As a result, residents of these neighborhoods left their homes to shelter with family and friends in surrounding areas or in informal reception centers.

The government had limited capacity to address the needs of displaced persons.

Large-scale gang violence strained the limited social services system; external partners and donors provided most of the humanitarian assistance to survivors and displaced persons.

g. Stateless Persons

Statelessness remained a major issue, especially for citizens along the border with the Dominican Republic. Although the Civil Registry and Office of National Identification made strides in increasing the number of individuals with identity documents, thousands still lacked documentation, and when undocumented citizens migrated irregularly to the Dominican Republic, they became stateless. Many children born in the Dominican Republic to Haitian parents also became stateless.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage. A long-running political impasse, complicated by the 2021 assassination of President Moïse, delayed legislative elections, originally scheduled for 2019 and 2020. Parliament was unable to function since the upper house contained only 10 senators – too few to constitute a quorum – and the lower house had no members. A new president was originally scheduled to take office in February; however, as of December, it remained unclear when elections would occur.

Elections and Political Participation

Recent Elections: Legislative, municipal, and presidential elections were last held in 2016-17. While there were isolated allegations of voter fraud, the elections were generally regarded as credible by international and domestic observers. Although voter turnout was low, citizens generally accepted the elections, and public demonstrations against the election results were muted in comparison with previous years.

Presidential, legislative, and local elections scheduled for 2022 did not take place due to problems in logistics and in reaching a political accord. In October, Prime Minister Henry dissolved the provisional electoral council established by President

Moïse in 2020. The council was the country's electoral commission and had the responsibility of organizing presidential and parliamentary elections. The council's management and staffing, however, was hampered by bureaucratic and logistical difficulties.

Participation of Women and Members of Minority Groups: No laws limit the participation of women or members of minority groups in the political process, but social norms and the threat of electoral violence discouraged women from voting and, to a much greater extent, from running for office. Women politicians stated they faced significant resistance from colleagues and community members and were often told that as women they were not “strong” enough to “fight” in the violent nature of the country's politics.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for a wide variety of acts of corruption by officials, including illicit enrichment, bribery, embezzlement, illegal procurement, insider trading, influence peddling, and nepotism. The government did not implement the law effectively. There were numerous reports of government corruption and a perception of impunity for abusers.

The constitution mandates corruption cases of high-level officials and members of parliament be prosecuted by the High Court of Justice, which is made up of the Senate and the head judge of the Supreme Court. The High Court of Justice has never heard cases of corruption. The government's previous anticorruption strategy expired in 2019. As of September, the government was working to update the strategy. In August, the Central Bank and the Central Financial Intelligence Unit, which is part of the Ministry of Justice and Public Security, signed a memorandum to investigate jointly financial crimes in the banking system.

Corruption: Officers from the Anticorruption Unit, a government agency in the Ministry of Finance, investigated allegations of corruption in the General Customs Administration, including against its then Director General Romel Bell. Bell fled to the Dominican Republic on a diplomatic passport and as of September had not returned. Under Bell's leadership, customs revenue had never exceeded two

billion gourdes (\$15 million) monthly; after his departure, customs revenue for August was nearly eight billion gourdes (\$61 million).

On August 25, the Anticorruption Unit released reports from 12 investigations conducted throughout the country. The reports alleged more than \$3.6 million in government funding was unaccounted for because of project mismanagement by mayors, university leaders, and other government officials throughout the country.

On November 14, Prime Minister Henry and the Council of Ministers removed Justice Minister Berto Dorce, Interior Minister Liszt Quitel, and Government Commissioner Jacques Lafontant from their positions. The prime minister did not provide an explanation for the removals, but civil society representatives alleged they were removed for their connections to corruption and gang activity.

Human rights activists continued to allege that corruption fueled gang violence, since diverted government funds were believed to contribute to financing of gangs. RNDDH stated corruption in public agencies led to trafficking of arms and drugs.

Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights

Several domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally cooperated with human rights groups, although they disagreed at times on the scope of certain problems and the most appropriate means of addressing them. The government generally consulted the OPC and human rights groups.

Retribution against Human Rights Defenders (HRDs): Human rights groups reported they believed they were unsafe or targeted by armed groups. Groups reporting on kidnapping, gang activities, or other human rights concerns were likely to receive threats from armed groups.

The United Nations or Other International Bodies: Despite UN efforts beginning in 2018 to open a local branch of the Office of the UN High

Commissioner for Human Rights, as of September the government had not signed a host-country agreement.

Government Human Rights Bodies: The OPC's mandates are to investigate allegations of human rights abuse and to work with international organizations to implement programs to improve human rights. Human rights groups had generally favorable opinions of the OPC and its work and did not allege any infringement on its independence; however, they cited a lack of resources as a major hindrance to its operations.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: The law prohibits rape of men and women but does not recognize spousal rape as a crime. The penalty for conviction of rape is a minimum of 10 years of forced labor. In the case of conviction for gang rape, the maximum penalty is forced labor for life. Sexual violence was rarely formally prosecuted and often settled under pressure from community and religious leaders. In cases of pregnancy, there was generally a monetary settlement calling on the rapist to pay for prenatal care and birth costs, and occasionally calling on the rapist to acknowledge the child as his own. Forced marriages occurred occasionally. In cases of adultery, the law excuses a husband who kills his wife, her partner, or both found engaging in adultery in the husband's home, but a wife who kills her husband under similar circumstances is subject to prosecution.

The law does not classify domestic violence against adults as a distinct crime. Women's rights groups, HNP leadership, and human rights organizations reported domestic violence against women remained commonplace.

Investigations by several UN and human rights organizations concluded gangs in the metropolitan Port-au-Prince area systematically employed sexual violence as a tool of degradation and community control in both gang-controlled and gang violence-prone areas. Armed groups sexually violated women, girls, men, and boys with impunity and often in public places. Victims reported instances of gender-based violence by multiple aggressors in short periods of time, being

sexually violated by objects, and being sexually violated in front of family members. Gangs videotaped and circulated sexual assaults of kidnapped women and girls to pressure their families to pay ransoms. Human rights organizations also reported instances of gender-based violence as “retaliation” by one gang against populations controlled by rival gangs.

Victims of gender-based violence faced major obstacles in seeking legal justice, as well as in accessing protective services such as women’s shelters. Civil society organizations reported many victims did not report such cases because of social pressure, fear of retaliation, and a lack of logistical and financial resources.

According to some civil society organizations, many local nonprofit organizations that provided shelter, medical services, psychological services, and legal assistance to victims had to reduce services due to a lack of funding. There were reports that in rural areas, criminal cases, including cases of gender-based violence, were settled outside the justice system. In such cases, local leaders often pressured family members to come to financial settlements with the accused to avoid social discord and embarrassment. According to judicial observers, prosecutors often encouraged such settlements.

Other Forms of Gender-based Violence: The feminist organization Neges Mawon reported invasive and violent “virginity checks” persisted. These were typically performed by family members on young women, sometimes using foreign objects. Neges Mawon also reported instances of young women being “prepared for intercourse” using foreign objects.

Sexual Harassment: The law does not specifically prohibit sexual harassment, although the labor code states men and women have the same rights and obligations. Observers indicated sexual harassment occurred frequently. Although authorities stated the government was opposed to sexual harassment, there were no formal governmental programs to combat it on a national scale.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Social and economic barriers, including limited access to clinics and stigma against contraception use, remained around seeking or accessing contraception. Cultural

and historical barriers persisted in the use of the intrauterine device and contraception more generally, particularly cultural misconceptions and lack of knowledge of proper usage. Women living in poverty or in rural areas experienced significant obstacles accessing comprehensive reproductive health care.

The government has protocols governing the provision of service to survivors of gender-based violence. Emergency contraception was part of a mandatory package of services for the clinical management of rape cases, according to government protocols. Emergency contraceptives were available, although health providers noted they were not always distributed equitably. The Ministry of Health was responsible for maintaining these protocols and practices; however, donors and NGO partners provided nearly all such care.

In many rural areas, *sage femmes*, or community birth attendants, were the most common provider of maternal care. Although some received formal training, most had trained as apprentices to other *sage femmes* in their communities and practiced based on traditional methods of maternal care. In metropolitan areas, some women elected to give birth at home with a *sage femme* rather than in a health facility. The choice may be rooted in a desire for client-centered care, particularly for respectful maternity care.

The World Health Organization estimated the maternal mortality rate most recently at 480 deaths per 100,000 live births in 2017. A major cause of maternal deaths was the lack of formally trained birth attendants in rural areas. Other reasons included geographic difficulties in accessing health facilities and financial barriers to primary health care. Of the country's 571 communal sections, or local districts, 125 had no health facilities. The proportion of births attended by skilled health personnel was 42 percent. The adolescent birth rate for those ages 15-19 years was 100 per 1,000 girls.

Stigma regarding menstruation persisted, and women's organizations reported significant barriers to menstrual hygiene for women and girls in rural areas. Although there are no legal barriers to women's access to education or employment when they become pregnant, observers reported many young women dropped out of school because of early pregnancies.

Discrimination: Women did not enjoy the same social and economic status as men, despite the constitutional requirement that women’s participation in national life and in public service (i.e., political candidates, elected officials, and civil servants) be at least 30 percent of the positions.

By law men and women have equal protections for economic participation. Nevertheless, women faced barriers to accessing economic inputs and securing collateral for credit, information on lending programs, and other resources. Women faced restricted job opportunities, lower pay, and restricted access to banking and other support services. They were often the earliest to leave the educational system.

Systemic Racial or Ethnic Violence and Discrimination

The constitution provides for equal protection of all citizens, without discrimination. The constitution also establishes the OPC to protect “all individuals against any form of abuse by the government.” The government did not enforce these laws effectively.

There were high levels of colorism (prejudice or discrimination against individuals with a dark skin tone) and ethnic discrimination against the Syrian-Lebanese community that controlled many aspects of the economy.

Children

Birth Registration: Citizenship is derived through an individual’s parents; either parent may transmit citizenship. Citizenship may also be acquired through a formal request to the Ministry of the Interior. The government did not register all births immediately. Birth registry is free until age two. Obtaining birth certificates for children remained a problem throughout the country. Children born in rural communities were less likely to be documented than children in urban areas. During the year, the Interior Ministry issued many birth certificates, including backlogged ones. Birth certificates are required when citizens apply for the national biometrically enabled identification cards required for voting. Although the provision of birth registration continued to face logistical and resource challenges, it was provided on a nondiscriminatory basis.

Child Abuse: The law prohibits domestic violence against children. The government lacked an adequate legal framework to support or enforce mechanisms to fully promote children’s rights and welfare. The government made some progress in institutionalizing protections for children.

The practice of *restaveks*, or children born into poor families and offered to wealthier ones as domestic workers in exchange for the child receiving education, food, and shelter, remained a serious concern. A 2015 Ministry of Social Affairs study estimated 286,000 children were working as restaveks and were often victims of psychological, physical, and sexual abuse, sometimes including human trafficking (see section 7.b.). Observers, especially in rural areas, emphasized the prevalence and severity of the practice. Restavek children were significantly less likely to access education or find long-term employment as adults. Human rights representatives also emphasized restavek children were highly vulnerable to crime and trafficking in forced begging and commercial sex.

Child, Early, and Forced Marriage: The legal age of marriage is 18 for men and 15 for women. Early and forced marriage were not widespread customs. Legal marriage was uncommon, and many couples chose to live together in long-term relationships known as *plasaj*. The government does not formally recognize *plasaj*, although children born to those couples may be recognized as the legal children of both parents.

Sexual Exploitation of Children: The minimum age for consensual sex is 18, and the law has special provisions for rape of a person aged 16 or younger. The maximum penalty for human trafficking with aggravating circumstances, which includes cases involving the exploitation of children, is life imprisonment. Enforcement, however, remained difficult, although on August 20, the government successfully arrested Réginald Dégand for his involvement in a high-profile human trafficking case.

Displaced Children: Children displaced by gang violence in the metropolitan Port-au-Prince area were vulnerable to gender-based violence and less likely to access education.

Following violence in Cité Soleil in July, the Ministry of Social Affairs’ Institute

for Social Well-Being and Research (IBESR), which is responsible for child welfare, received 620 children into temporary custody. Approximately 300 of these children sheltered at the Institution Saint-Louis de Gonzague, a private school in the Port-au-Prince area, until classes resumed in August.

Institutionalized Children: The IBESR has official responsibility for monitoring and accrediting the country's residential children's homes and care centers. The institute visited 754 such facilities, of which 176 institutions were accredited by the government. According to the international NGO Lumos, an estimated 26,000 children lived in residential children's homes and care centers, and approximately 80 percent of these children had at least one living parent. Children in these institutions were vulnerable to human trafficking.

Antisemitism

The Jewish community numbered fewer than 100 persons, and there were no reports of antisemitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics

Criminalization: No laws criminalize consensual same-sex sexual conduct between adults. Same-sex marriages are not criminalized but are not recognized. The law requires marriage to be between a man and a woman. There are "public decency" laws that criminalize sexual activities in public places. Some activists and human rights organizations stated these laws were used disproportionately against LGBTQI+ persons.

Violence against LGBTQI+ Persons: There were no reports of violence against LGBTQI+ individuals by police or other government agencies. Armed gangs targeted LGBTQI+ individuals based on their sexuality.

Kay Trans Haiti, the country's first shelter and social services organization for transgender youth, reported two transgender persons were killed during the April 24 – May 6 clashes between the Chen Mechan and 400 Mawozo gangs in the Plaine du Cul de Sac region. Kay Trans also reported an additional three attempted killings of LGBTQI+ persons during the same period. In all five cases, the individuals had previously received threats from gang members.

KOURAJ, an LGBTQI+ activist group, reported two educators affiliated with their organization were injured in a violent and transphobic attack on July 23. Wales Charlotin and John Peterson were attacked in their home in Bolosse. The attacker hit Charlotin in the stomach with two projectiles and inflicted several other injuries; Peterson was stabbed in the neck and eyes.

BINUH's report on targeted sexual violence stated gangs used "corrective" rape against LGBTQI+ persons, often inflicting sexual violence in highly public places to humiliate victims as much as possible. LGBTQI+ men and boys were sometimes forced into same-sex sexual relationships following these violent attacks from gang members.

Discrimination: The law does not prohibit discrimination by state and nonstate actors based on sexual orientation, gender identity or expression, or sex characteristics and does not recognize LGBTQI+ individuals, couples, or their families. Same-sex marriages are not recognized.

There are few laws that infringe upon LGBTQI+ persons' rights, but many individuals and groups were openly hostile towards LGBTQI+ persons. Individual parliamentarians frequently used inflammatory anti-LGBTQI+ language in radio broadcasts or in other media outlets. Religious leaders also publicly denounced LGBTQI+ persons as "not Haitian."

A 2017 study of public opinions on stigma and discrimination towards vulnerable groups showed that 71 percent of the individuals surveyed responded "hate" was the most appropriate term to express their attitude toward LGBTQI+ persons, and 90 percent of the adult population rejected the idea of equal rights for sexual minorities.

Local attitudes, particularly in Port-au-Prince, remained hostile toward LGBTQI+

persons who made their sexual orientation or gender identity public and visible. Some politicians, social leaders, and organizations actively opposed the social integration of LGBTQI+ persons or any discussion of their rights. LGBTQI+ advocacy groups in Port-au-Prince reported a greater sense of insecurity and less trust of government authorities than did groups in rural areas.

Availability of Legal Gender Recognition: Changing government identification documents required a modified birth certificate, which could be obtained with the assistance of a lawyer. The process to modify a birth certificate, however, was lengthy and expensive, and it required the applicant to appear in person. One LGBTQI+ activist reported civil servants often refused to issue modified birth certificates or passports to transgender persons, and there was little enforcement to verify they did so. Once applicants have a modified birth certificate, they may change other forms of identification. Transgender individuals reported they were able to change their gender and names on identification documents, but several individuals reported meeting resistance from employees at government agencies when they attempted to obtain forms of identification. There was no option of identifying as nonbinary, intersex, or gender nonconforming on government identification documents. Intersex individuals were assigned identification markers based on recommendations by medical experts, often through genetic testing.

Involuntary or Coercive Medical or Psychological Practices Specifically Targeting LGBTQI+ Individuals: BINUH reported armed groups employed “corrective rape,” especially towards LGBTQI+ women. Armed groups often carried out this violent practice in public spaces.

Restrictions of Freedom of Expression, Association, or Peaceful Assembly: There are no laws that prevent activists from speaking out in favor of LGBTQI+ rights or holding Pride events, but activists stated they often believed it was unsafe to do so. Activists condemned a “culture of intolerance” fueled by religious leaders and some politicians, who often used channels or other media sources to incite violence against LGBTQI+ individuals. (See also section 2.b., Freedoms of Peaceful Assembly and Association.)

Persons with Disabilities

The constitution stipulates persons with disabilities should have adequate means to provide for their autonomy, education, and independence. The law requires all public buildings and spaces to be accessible to persons with disabilities. The law bans discrimination against persons with disabilities and stipulates they have the right to basic services such as health, education, and justice. The law prohibits discrimination in employment practices against persons with disabilities, requires the government to integrate such persons into the state's public services, and imposes a quota of 2 percent for persons with disabilities in the workforces of private-sector companies. The quota was not met, and the government did not enforce these legal protections, particularly regarding education, health services, public buildings, and transportation.

Individuals with disabilities faced significant social stigma, exclusion, and discrimination due to their disabilities. For instance, families often left their family members with disabilities isolated at home. Local disability rights advocates stated persons with disabilities faced significant obstacles to voting and civic participation. Persons with disabilities had difficulty obtaining national identification cards required for voting because the National Identification Office was inaccessible to them.

Establishments including government offices, churches, and schools did not routinely make services accessible for persons with disabilities. Opportunities to access services often depended on the economic status of the family. Persons with mental, developmental, or physical disabilities were marginalized and neglected. Deaf and blind citizens also faced marginalization and neglect and did not routinely receive necessary services.

According to a 2009 study conducted by the Ministry of Social Affairs, 3.5 percent of an estimated 120,000 children with disabilities in Port-au-Prince attended school, as opposed to 57 percent among the general population. Disability activists reported students with disabilities had less access to secondary education. Nationwide, some children with disabilities were mainstreamed into regular schools, depending on the severity of the disability and the economic status of the family. A small number of schools provided specialized education for children

whose disabilities did not allow them to be mainstreamed.

Some disability rights activists noted social services available to persons with disabilities were inadequate and persons with disabilities had significant problems accessing quality medical care. Hospitals and clinics in Port-au-Prince were rarely accessible to persons with disabilities and often refused to treat them.

Other Societal Violence or Discrimination

Stigma against persons with HIV or AIDS remained strong and widespread and, in some cases, discouraged persons with HIV from seeking medical treatment. In a 2020 report published by the UN Program on HIV/AIDS, 63 percent of adults surveyed in the country responded they would not purchase vegetables from a seller known to be HIV-positive, while 54 percent believed students with HIV should not attend school.

The prevalence rate of HIV among girls and women ages 15-29 was nearly triple that of their male peers; experts believed this was because of the high rate of sexual violence against young women.

Results from the donor-supported Community-Led Monitoring (CLM) initiative indicated stigma and discrimination remained high at both the community and facility levels. Persons with HIV faced discrimination from health-care providers. As a result, some persons dropped out of care or sought medical treatment outside their community. The CLM highlighted a need for capacity building and stigma reduction at national, departmental, and facility levels.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of some workers, excluding public-sector employees, to form and join unions of their choice and to strike, with restrictions. The law allows for collective bargaining, stating employers must conclude a collective contract with a union if that union represents at least two-thirds of the workers and requests a contract. Strikes are legal if, among other requirements, they are approved by at least one-third of a company's workers. The law prohibits

firing workers for union activities, but it was unclear whether employers may be penalized for each violation. The law sets very low fines for illegal trade union dismissals, however, and does not explicitly provide for reinstatement as a remedy.

The law restricts some worker rights. It requires a union obtain prior authorization from the government to be formally recognized, although workers may freely associate to defend their common interests without prior authorization. Foreign workers are prohibited from holding union office. According to union representatives, the Social Organizations Service of the Ministry of Social Affairs had excessive authority over setting up and running a union.

The law limits legal strikes to four types: striking while remaining at post, striking without abandoning the institution, walking out and abandoning the institution, and striking in solidarity with another strike. Public-utility service workers and public-sector enterprise workers may not strike. The law defines public-utility service employees as essential workers who “cannot suspend their activities without causing serious harm to public health and security.” A 48-hour notice period is compulsory for all strikes, and strikes may not exceed one day. Some groups were able to strike despite these restrictions by being present at their workplace but refusing to work. One party in a strike may request compulsory arbitration to halt the strike. The law does not cover self-employed workers or workers in the informal economy.

The labor court, located in Port-au-Prince, is under the supervision of the Ministry of Social Affairs and adjudicates private-sector workplace conflicts. Outside of Port-au-Prince, plaintiffs may use municipal courts for labor disputes. The law requires ministry mediation before cases are filed with the labor court. In the case of a labor dispute, the ministry investigates the nature and causes of the dispute and tries to facilitate a resolution, including reinstatement as a possible remedy. In the absence of a mutually agreed resolution, the dispute is referred to court.

The government did not effectively enforce the law, and penalties were not commensurate with those for other laws involving denials of civil rights. Judicial procedures were subject to lengthy delays and appeals, and many courts were not functioning during the year due to social conflicts. Penalties were rarely applied against violators.

Government and private employers did not respect freedom of association and collective bargaining. Antiunion discrimination persisted to some extent. Companies reported extortion by union leaders in the form of threats to organize strikes if leaders were not paid extra. Most unions did not report membership numbers or collect dues. During the year, workers reported suspensions, terminations, and other retaliation by employers for legitimate trade union activities.

An assessment by the UN International Labor Organization (ILO) partner Better Work Haiti (BWH), which monitored working conditions in 28 factories between February and November 2021, the latest period for which such reporting was available, identified one case of discrimination in which six union leaders were dismissed for failure to wear a mask during work hours. The management was unable to show a zero-tolerance protocol in place for face masks. Despite a recommendation from BWH, the factory management did not reinstate the six union leaders.

In January, the government appointed a new labor ombudsperson, reporting directly to the prime minister. The ombudsperson was responsible for compliance with core labor standards and relevant labor laws, and for providing labor mediation services within the Caracol Industrial Park and CODEVI Industrial Park in Ouanaminthe, while the Ministry of Social Affairs provided mediation services to workers and employers in Port-au-Prince. Due to limited capacity and procedural delays in forwarding cases from the ministry to the courts, the mediation services of the apparel sector's labor ombudsperson and the conciliation services of the ministry were often the only practical options for workers to address grievances regarding pay and working conditions.

The Office of the Labor Ombudsperson offered mediation between employers, workers, and trade union organizations regarding wage disputes, failure to pay healthcare and pension benefits, and allegations of unlawful dismissals or suspensions of trade unionists. The Office of the Labor Ombudsperson produced quarterly reports documenting details on cases received and mediations conducted, as well as on daily factory operations in terms of closures and reported attendance percentages.

b. Prohibition of Forced or Compulsory Labor

Although the law prohibits all forms of forced or compulsory labor, including slavery, labor violations are part of civil law and are not criminally prosecuted. The government did not effectively enforce the law in all sectors of the economy, and penalties were not commensurate with those for analogous crimes, such as kidnapping. The Office of the Labor Ombudsperson did not report any instances of forced or compulsory labor within its area of jurisdiction.

While there were no reports of forced or compulsory labor in the formal sector, the practice of *restaveks* continued to be a concern (see section 6, Children, Child Abuse). The government reported the Brigade for the Protection of Minors, a unit within the national police, conducted 466 investigations in 2021 of crimes against children, but it did not disaggregate the data or specify how many of these investigations involved potential child-trafficking crimes.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

See the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings/>.

d. Discrimination with Respect to Employment and Occupation

The constitution provides for freedom of work for all citizens and prohibits discrimination based on sex, national or geographic origin, religion, opinion, or marital status. The constitution states women should occupy 30 percent of the positions in public-sector employment. The law does not define employment discrimination, although it sets out specific provisions with respect to the rights of women, such as provisions related to maternity leave. The ILO stated in 2021 that the general provisions of the country's labor code were not sufficient to address all the grounds of discrimination prohibited under the ILO core conventions the country has ratified.

The constitution prohibits discrimination based on disability, but the law does not

prescribe penalties for violations. Persons with disabilities faced discrimination in hiring and access to the workplace (see section 6, Persons with Disabilities). The law does not prohibit discrimination based on language, sexual orientation, gender identity, social status, or HIV-positive status. Women continued to face economic restrictions such as harassment in the workplace and lack of access to credit and other financial opportunities. Unions reported practitioners of the Vodou religion faced discrimination in employment.

The government did not effectively enforce the law, and penalties were not commensurate with penalties for laws related to civil rights, such as election interference. In the private sector, several industries, including public transportation and construction, which in the past had been male oriented, employed female workers at the same pay scale as men. Despite these improvements, gender discrimination remained a major concern. There was no governmental assessment or report on discrimination in the workplace.

e. Acceptable Conditions of Work

Wage and Hour Laws: The law provides for a national minimum wage. Minimum wages are set by the government based on official macroeconomic indicators on at least an annual basis and generally remained above the national poverty line. Following several weeks of strikes and protests in January and February relating to demands for an increased minimum wage, the government issued a 37 percent wage increase. Following discussions between the Ministry of Social Affairs, the Office of the Labor Ombudsperson, and labor union leaders, the government announced in August a transportation and food stipend program worth 135 million gourdes (\$1.1 million) to support workers.

The “3×8” law organizes and regulates work during a 24-hour period divided into three eight-hour shifts. This law sets the standard workday at eight hours and the workweek at 48 hours for industrial, commercial, agricultural, and tourist establishments, and for public and private utilities. There was a lack of clarity, however, on overtime payments, rest days, and paid holidays, which were often the subject of friction between workers and employers. According to the chairman of a public-private labor oversight organization for the apparel sector, the 3×8 law applied only to certain enterprises, thereby limiting its implementation.

The BWH reported cases of employers making late payments for worker contributions to the country's social security administration (the Office of National Insurance) or when employers made erroneous or late payments to the Office of Insurance for Work Accidents, Sickness, and Maternity.

Occupational Safety and Health: The law establishes minimum occupational safety and health (OSH) regulations, including rules for onsite nurses at factories, medical services, and annual medical examinations. The law allows workers to notify the employer of any defect or situation that may endanger worker health or safety, and to call the Ministry of Social Affairs or police if the employer fails to correct the situation. Observers stated OSH standards needed reform, including new policies and programs to mitigate persistent and emerging OSH risks, reinforce health promotion at work, and develop compliance programs. Standards were not always enforced. In its 23rd *Biannual Synthesis Report*, which covered part of 2021, the BWH found that 96 percent of factories were noncompliant on emergency preparedness and on chemical and hazardous substance management.

Wage, Hour, and OSH Enforcement: The Ministry of Social Affairs was responsible for enforcing a range of labor-related regulations on wage and hour requirements, standard workweeks, premium pay for overtime, and OHS regulations, but it did not effectively enforce the law. Penalties were not commensurate with those for similar crimes, such as fraud. There were no prosecutions of individuals accused of violating the regulations for minimum wage, hours of work, or safety.

Labor inspectors lacked training and received little support from law enforcement authorities. Inspectors did not have the authority to make unannounced inspections or initiate sanctions. Despite operational difficulties due to the COVID-19 pandemic, the ministry was able to conduct inspections in the garment sector.

Informal Sector: According to World Bank's *Country Private Sector Diagnostic* report on Haiti, informal workers accounted for 87 percent of the labor force, with agriculture and urban informal sectors providing employment to 40 percent and 47 percent of the labor market, respectively. The government did not enforce the law in the informal sector.

In the absence of effective contract enforcement or state oversight (the government does not track any data on the informal economy, including its size), economic activities tended to remain within family and social networks. More women participated in the informal sector than men. Women were approximately 20 percent more likely than men to be unemployed and, if working, 6 percent more likely to participate in the informal sector.